



IDAHO SOIL CONSERVATION COMMISSION

Bi-monthly Commission Meeting Tuesday, September 22, 2009

Idaho Soil Conservation Commission

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Governor

C.L. "Butch" Otter

Commission Members

J. Morgan Evans, Chair
Bill Flory, Vice-chair
Joe Davidson, Secretary
Dwight Horsch
Dick Bronson

Administrator

Sara Schmidt

Con Paulos Chevrolet-Pontiac-GMC
Community Room

251 East Frontage Rd South
Jerome, Idaho

9:00 a.m. Mountain Daylight Time

APPROVED MINUTES

Commission Members Present:

Dwight Horsch
Morgan Evans
Dick Bronson

Bill Flory
Joe Davidson

Commission Staff Present:

Sara Schmidt
Kristin Magruder

Dave Saxey
Tony Bennett

Partners and Guests Present:

Kent Foster
Kyle Hawley
Dave Schmidt
Karma Bragg
Terry Halbert
Steve Becker
Cody Anderson
Harriet Hensley
Chuck Pentzer

Jordan Tollefson
Donell Fluckiger
Wayne Newbill
Brian Olmstead
Dave Ascuena
Randy Purser
Lyla Dettmer
Kelly Nielsen

1 **Welcome, Review Agenda, Announcements**

2
3 Chairman Morgan Evans opened the meeting and welcomed everyone on behalf of the
4 Commission at 9:01 am. Self introductions of commission members and guests followed.
5

6 **Secretary Joe Davidson has reviewed minutes of the July 28, 2009 Commission meeting.**
7 **Davidson moved to accept minutes with minor change to page 6 of 9, line 226, from**
8 **\$674,000 to \$817,469. Vice-Chair Bill Flory seconded motion. Motion passed unanimously.**
9

10 **Review of July 26, 2009 minutes from the informal work session. Motion by Flory to**
11 **approve minutes. Second by Dwight Horsch. Motion passed unanimously.**
12

13 **Administrator's Report**

14
15 Sara Schmidt, Idaho Soil Conservation Commission (ISCC) Administrator, gave a review of the
16 Administrator's Report. Schmidt talked through the organization for outline, working quarter by
17 quarter and focusing on budgets, communications, and internal and external accountability as
18 previously set forth by the Commission as being priority issues. A FY2011 budget request was
19 submitted for the full 2 to 1 match for the districts. Schmidt discussed moving forward with state
20 requirements for the Performance Measurement Report and other unexpected annual reports.
21 Schmidt discussed upcoming projects including vehicle fleet management and space
22 management analysis for potential cost savings. Communication efforts include a bi-monthly
23 newsletter to all the districts.
24

25 Schmidt continued to discuss internal controls that have been met and projects going forward.
26 Standard Operating Procedure manuals are being created this fall to document the Water Quality
27 Program for Agriculture (WQPA), loan analyst, and administrative assistant positions. Schmidt
28 addressed the ISCC staffing needs as a result of attrition. A Natural Resources Conservation
29 Service (NRCS) staffer will be leading a workload analysis for past and future needs of ISCC.
30

31 **Financial Report**

32
33 Kelly Nielsen, Idaho State Department of Agriculture (ISDA) Fiscal Officer, provided the
34 financial report to the Commission. Nielsen discussed the condensing of the general fund for the
35 FY10 at ISCC's request. PCA's have been consolidated to better track funds. Spending has
36 been very conservative and ISCC is on pace to hit milestones. Schmidt discussed some funds
37 that have been set aside for potential holdbacks.
38

39 Nielsen discussed the Rural Conservation and Rangeland Development Program (RCRDP)
40 trends and State Revolving Fund (SRF) loan fund.
41

42 Nielsen discussed the federal funds from each project. The grant counting is not based on the
43 fiscal year, but rather on the timing of the grant itself. The cash flow information is not going to
44 look as consistent as for the general funds. The spreadsheet is provided just as a snapshot and is
45 not accurate for total amounts. Evans expressed his appreciation to Nielsen for the information
46 and the good relationship in the past and going forward and would appreciate any information to

help ISCC's budgeting process. Nielsen discussed the potential for tapping into some additional federal grant funds and discussed some of the other projects the Department of Agriculture is currently moving forward with.

RCRDP Review and Update

Schmidt reviewed the Legislative Services Office (LSO) audit and the background. LSO does an audit every three years on every state agency. ISCC is part of an ISDA audit and the ISCC response is for findings 2, 3, and 4. All three findings deal with the RCRDP loan program and Schmidt felt that the processes are in place but not officially documented. Finding 2 addressed developing a comprehensive cash flow, which Saxey has been presenting to the Commission. Finding 3 addressed loan system issues, which resulted in a consultant being brought in back in June 2009 for the necessary updates. Finding 4 addressed weaknesses in internal controls. Internal controls have been updated for the loan officer and administrative assistant positions and are in process of being formally implemented and documented.

Flory commented on the communication history with borrowers prior to the audit findings. The processes with borrower communication have become more consistent. Problems going back three years have shaped the policies currently in place.

Horsch addressed finding 4 and questioned how they came to this finding. Horsch was concerned that checks are still not stamped and collections not immediately entered. Nielsen addressed the ISDA mailroom and fiscal procedures for incoming checks. A check not being stamped is the exception and not the norm. Horsch stressed the importance of being diligent.

Schmidt advised the Commission the response will be submitted to LSO prior to the end of the week.

Schmidt commended Saxey for updating the policies and procedures for the Resource Conservation and Rangeland Development Program (RCRDP) program. Proposed Rules were due by September 1st but ISCC staff received a postponement in order to bring it before the Commission for approval first. Saxey prepared a summary of proposed changes. RCRDP had not been updated since 1994 and was originally designed to govern the WQPA loans. Most of the changes remove those references as they are designated in other statutes. Schmidt further discussed changes including defining 'Other Funds', 'Security', and the 5% funds requirement from applicant.

One of the biggest changes is the maximum amount of money that can be loaned. Proposed rules will allow for \$200,000 for a single loan and \$300,000 total for an individual borrower. The new rules allow for flexibility in ISCC funding policy. Evans stressed the importance of having input on this particular change from the Commission. Discussion continued between Commission members on the pros and cons of loans limits, the increasing cost of projects, and whether the Commission wants to take on that added liability of the larger loans. The group discussed leaving the interest rate at a maximum of 6%. Discussion continued about the individual farmer not seeing the personal benefit of conservation, but that the state does and

there is a benefit in leaving interest rates low for the farmers. By consensus, the interest rate will remain at 6% on a fixed basis because historically it has always been a good number.

The loan limit amount was readdressed. The Commission believes that the interagency cooperation with NRCS has been successful with the landowners to put the whole project together with cost sharing. Flory supports raising the loan amount to \$200,000. Dave Schmidt, NRCS discussed the avenues of federal funding and the partnership cooperation.

Flory moves to approve the proposed changes to RCRDP rules. Horsch seconded. Discussion continued. Sara Schmidt advised the rules allow for future flexibility. Motion passed unanimously.

Horsch thanked Saxey and Schmidt for their advanced communications and preparations to advise the Commission on this matter.

Schmidt moved forward with the statute change proposal. A dual-application process would eliminate the borrower's personal information being disclosed during the priority evaluation and ranking in a district's public meeting. The Commission agreed that this has been an on-going issue and had heard concerns from the districts about seeing all of the personal information and knows that the landowners won't apply for that reason. Discussion continued about current statute requirements and it was stated that the application currently needs to go back to the district to receive a ranking priority per statute. Concerns were addressed to ensure transparency and release of applicant's personal information and it was stated that the Commission RCRDP loan decisions are made public without disclosing applicant's personal information.

Horsch moves to approve statute changes. Flory seconded. Discussion about the importance of farmers to have access to public funds without the fear of divulging personal information. Motion passed unanimously.

Dave Saxey, ISCC, discussed RCRDP financials for FY10, currently at \$249,025.81 and cash flow projections for FY10 by quarters, ending at a projected balance of \$1,202,888.03. By 2nd quarter, with all projected incoming payments, the program will be in the black at \$294,153.80 – assuming all components perform as planned. Discussion about the need of setting aside a specific amount in the loan program for a loan loss reserve or other fees as needed. A suggestion was made for putting a line item in the financial forecasting for reserves in the RCRDP program. Discussion followed.

Flory moves to track and create a loan loss reserve in the amount of 1% of total RCRDP loan outstanding balance for the financial forecasting and review said reserve at every bi-monthly commission meeting. Davidson seconded. Discussion by Horsch, Flory and Nielsen about the history of reserves. Motion passed unanimously.

Horsch moves to approved financial report. Davidson seconded. Motion passed unanimously.

A short break was ordered for five minutes and the meeting reconvened at 10:57 a.m.

138
139 **Davidson moves to go into executive session under Idaho Code Section 67-2345(1)(d) to**
140 **consider records that are exempt from public disclosure. The purpose for moving into**
141 **executive session is to discuss pending RCRDP loan applications. Flory seconds the**
142 **motion. Roll call vote was taken with all voting in the affirmative.**
143

144 The chair invites Sara Schmidt, Harriet Hensley, Dave Saxey, Kelly Nielsen, and Kristin
145 Magruder to remain.
146

147 **Commission moves into Executive Session at 10:59 a.m.**
148

149 **Executive session ended at 11:29 a.m.**
150

151 Saxey recapped the five loan application summaries.
152

153 **Horsch moves to approve Loan #1. Flory seconded. Motion passed unanimously.**
154

155 **Davidson moves to approve Loan #2. Flory seconded. Motion passed.**
156

157 **Davidson moves to deny Loan #3. Flory seconded. Motion passed unanimously.**
158

159 **Davidson moves to deny Loan #4. Flory seconded. Motion passed unanimously.**
160

161 **Flory moves to deny Loan #5. Horsch seconded. Motion passed unanimously.**
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163

164 **Briefing from Attorney General's Office** 165

166 Harriet Hensley from the Attorney General's office addressed previous legal inquiries from the
167 Commission. First issue is the Commission's ability to enter into agreements with other
168 agencies. Hensley cited Supreme Court rulings and precedents set by other agencies. After
169 further review, it is the AG's opinion that the Commission is not prohibited from funding not-
170 for-profit agencies to carry out work of the Commission as long as it meets requirements: as long
171 as it is very clear what is being funded, that the public funds are for public goods or services
172 only, and the Commission maintains sufficient control over the activities being funded.
173 Discussion continued about the OnePlan agreement as being a template going forward for future
174 agreements and there was an inquiry about the difference in terminology used in previous
175 agreements. The response was that very specific language is generally used to make clear that
176 the contract is for professional services and not a state employment contract. Discussion
177 continued about past actions and agreements. Clarification was made that the Commission can
178 enter into agreements and direct funds to other entities as long as the work benefits the state and
179 is a public service.
180

181 A request was made for there to be an annual report to tie back to agreements and discussion
182 continued about there being flexibility in the crafting of agreements to come to terms that will be

mutually beneficial for reporting. There was continued discussion about funding, reporting, and ramifications if funding is sent to IASCD or distributed to individual districts.

Discussion continued about the concern the districts have if the Commission does not fund IASCD any longer. It was further stated that without funding from ISCC, IASCD won't be able to maintain a level of funding to keep an executive director or support the districts. Future budget concerns were addressed along with funding problems for services received. Discussion continued about the 1993 JFAC appropriation that directed ISCC funds to help IASCD to hire an executive director.

The district's ability to access the AG's office was discussed. In 1995, there was a consolidation of legal services within the AG's office, which is the current authority to provide services to state agencies. It is the interpretation that the AG's office may provide services to the districts but is not required to. As of now, the AG's office provides per hour services to the districts if a contract is signed and the Commission pays for services through the Dept. of Agriculture and established state system.

Lunch break was called for at 12:04 p.m. with partner reports beginning at 12:22 p.m.

Partner Reports and Updates

Dave Schmidt began with NRCS updates on financials. \$35m went out this year as financial assistance to producers in conservation practices. NRCS implemented some new farm bill programs. CCPI can apply for cost-share dollars through NRCS. AWEPP (Agricultural Water Enhancement Program), which is a national competition for funds, and NRCS obtained four projects, including Marsh Valley, which gets \$3.7m per year for next five years; and CAMP for \$15m. NRCS changed ranking procedures this year. NRCS is also in the midst of a conservation stewardship program, which is a reward system for land producers that pays about \$18 per acre. Looking to hire two additional positions, as well as fill other vacancies.

Karma Bragg, President of IDEA, discussed upcoming conference and the agreement with ISCC. IDEA is raffling a gun and fly rod at the conference this year to procure additional funding. Looking for suggestions for agenda items for the Breakfast with the Chairman so they can send invitations and get a good turnout. Bragg was also working on a district employee survey about partnership, insurance, and results will be presented to Interim Committee on September 23, 2009. Bragg also stressed the importance of having an IASCD executive director because they provide the district employees so much support.

Kent Foster, Executive Director for IASCD, discussed the upcoming conference November 15 through 18, 2009. There will be several committee meetings happening at same time. Pricing for room and food is good this year. Steve Miller is currently attending the National SCD meeting in Wyoming. IASCD is selling pickup trucks due to loss of TMDL staff. Foster discussed current staff and projects with Commission.

Schmidt, Hawley and Foster discussed the desire to reactivate the conservation partnership committee. Purpose is to address issues between the Commission and IASCD, including

QuickBooks reporting and other management issues. This reaffirms the commitment of the agencies to work together in delivering services and programs. Last statement was signed in November 2004.

Discussion about conflicts of conferences with other groups like the Cattlemen's Association and the Grain Producers.

Schmidt updates Commission on WQPA for new priority areas. Biff Burleigh and Schmidt decided to wait until future meeting to address this to see what budget constraints are.

CREP & WQPA Local Activities

Jordan Tollefson, Water Quality Resource Analyst, presented WQPA programs in Salmon Falls Creek, Taylor Canyon Creek, Shoshone Creek Water Quality Improvement Project, and other implementation efforts.

Chuck Pentzer, presented on the CREP program. Discussion followed.

Pending Requests and Other Business

Foster addressed the Commission about the teleconference of August 12, 2009 and previous funding request. Foster presented several options for the Commission to consider as he is concerned about funding running short and IASCD having to close their doors. Foster reviewed a list of IASCD activities that might meet the public funds test.

Discussion followed. IASCD is already three months into fiscal year with the anticipation that the funds would be paid by ISCC to IASCD. Without the funding, IASCD will be forced to make drastic cutbacks. If future years are not going to include funding, they would like advance notice. Discussion followed about the history of funding appropriations and where the funding for IASCD comes from in the ISCC budget.

Discussion about how current and new priority WQPA areas are determined and with budgets being restricted, it is difficult to assess priorities. A request was made for IASCD to be funded through the conference time to represent the districts. There was concern about the Commission being responsible for IASCD. Discussion continued about the districts needing time to regroup and reorganize if the status quo is going to change.

Discussion continued about the challenges of trying to meet the needs of the districts' requests, IASCD needs, and the Commission budget constraints.

A suggestion was made to allow IASCD to be funded for specific initiatives. ISCC has the authority to fund specific projects, and there is flexibility to include IASCD's requests as long as they include projects for the public good. A request was made to have FY10 be a transition year to allow time for districts to discuss needs and to have a plan in place for FY11. Discussion about funding issues continued. The original request was about \$60,000 and that budget cut possibilities were communicated to IASCD. Discussion followed about necessity to plan for the

275 rest of the fiscal year. Clarification of IASCD's position was made and what will happen if
276 funding goes directly to districts. Discussion followed about where funding could go. An option
277 was made to allow districts to get together and decide how they want to receive funding.
278 Regardless of where the funding comes from, the districts will still be under the 'public good'
279 caveat for spending public funds.

280
281 Discussion continued about budget transparency and clarification. Districts don't feel the
282 benefits of WQPA funding and feel it would be better to see IASCD funded.
283 Discussion followed.

284
285 The importance of doing everything possible to keep district doors open was stressed.
286 Discussion followed about the responsibility of auditing the funds that go to the districts.

287
288 It was asked if the Commission was in the position to make a decision about funding today.
289 Discussion followed on whether the funds are even available based on current cutbacks.

290
291 Davidson asked if it was possible to call a recess until tomorrow morning. Hensley responded
292 that Open Meeting Law is not clear and does not recommend a recess, but to schedule a
293 teleconference in the near future to finish discussing this issue.

294
295 **Flory moves to allocate \$15,000 to IASCD for specific deliverables to be determined later to**
296 **get IASCD through the conference in November. Horsch seconded. Discussion followed.**
297 **Measured deliverables to be agreed upon by staff and legal counsel. Motion passed**
298 **unanimously.**

299
300 **Flory moved to adjourn the meeting at 2:28 p.m. Horsch seconded the motion and it**
301 **passed unanimously.**

302
303 Respectfully submitted,

304
305 Joe Davidson
306 Commissioner and Secretary,
307 Idaho Soil Conservation Commission